

NOT FOR PUBLICATION

IN THE DISTRICT COURT OF THE VIRGIN ISLANDS  
DIVISION OF ST. THOMAS AND ST. JOHN

TERRI POLAK, MARIE REGIS, HECTOR  
RIOS, CATHERINE ALEXANDER, JEAN  
ALTAGRACIA ALANO, GLORIA TAYLOR,  
ROLAND JOHN, ARNOLD LEWIS, ENRIQUE  
PEREZ, IRIS MARTINEZ, and EMMANUELA  
CHARLES,

Civ. No. 2001-01

Plaintiffs,

v.

ANDREW RUTNIK, Commissioner of  
Licensing and Consumer Affairs; IRA  
HOBSON, Commissioner of Housing,  
Parks, and Recreation; FRANZ  
CHRISTIAN, Commissioner Police  
Department; CHARLES TURNBULL,  
Governor of the Virgin Islands, and  
THE UNITED STATES OF AMERICA

Defendants,

and

THE UNITED STATES TRUST COMPANY,  
SONIA KIM and CHRISTINE S. WHEATON,  
as Co-Trustees of the HOMER D.  
WHEATON QUALIFIED DOMESTIC TRUST

Intervenor-Defendants.

**ATTORNEYS:**

**Kent Rogers, Esq.**  
St. Thomas, U.S.V.I.  
*For the plaintiffs,*

**Iver Stridiron, Esq.**  
Attorney General  
St. Thomas, U.S.V.I.  
*For the defendants Andrew Rutnik, Ira Hobson, Franz  
Christian, and Charles Turnbull,*

**Joycelyn Hewlett, Esq.**

Assistant U.S. Attorney  
*For the United States,*

**Chad Messier, Esq.**  
St. Thomas, U.S.V.I.  
*For the intervenor-defendants.*

### **ORDER**

Once again, the plaintiffs appeal an order of Magistrate Judge Geoffrey W. Barnard pursuant to Rule 72.1 of the Local Rules of Civil Procedure. On March 16, 2001, Judge Barnard held a pretrial conference, at which plaintiffs' counsel failed to appear. At the conclusion of the conference, Judge Barnard ordered, *inter alia*, that plaintiffs' counsel will be sanctioned for failure to appear at the conference despite notice. He also ordered that discovery is stayed against defendant United States pending the Court's resolution of its motion to dismiss.

In this appeal, plaintiffs' counsel appears to take the position that since the plaintiffs filed a motion to stay the March 16th pretrial conference pending resolution of plaintiffs' appeal of a previous order entered by Judge Barnard, plaintiffs' counsel was relieved of the obligation to appear at the conference. The plaintiffs also assert that Judge Barnard's order staying discovery against the United States "shows his deep-seated favoritism for parties who are [C]aucasion." (Pls.' Appeal of Mag.'s Mar. 16th Order at 1.) Both assertions are wholly without merit.

Pursuant to L.R.Ci 72.1(b) (3) (B), the filing of a motion of

appeal to the District Judge does not operate to stay the Magistrate Judge's order being appealed, nor can it be construed to operate to stay proceedings before the Magistrate Judge. Although the plaintiffs had filed a motion to stay the conference, Judge Barnard had not yet ruled on that motion.<sup>1</sup> Under the circumstances, plaintiffs' counsel was not free to ignore Judge Barnard's order scheduling the conference. Furthermore, Judge Barnard acted well within his authority to stay discovery against the United States pending resolution of its motion to dismiss.

Accordingly, it is hereby

**ORDERED** that the order of the magistrate is **AFFIRMED**.

**ENTERED this 28th day of March, 2001.**

**FOR THE COURT:**

\_\_\_\_\_/s/\_\_\_\_\_  
**Thomas K. Moore**  
**District Judge**

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<sup>1</sup> In any event, Judge Barnard's order granting the intervenor-defendants an extension of time, which was the subject of the plaintiffs' previous appeal, was affirmed by this Court on March 15, 2001.

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**ATTEST:**  
**WILFREDO MORALES**  
**Clerk of the Court**

**By:** \_\_\_\_\_  
**Deputy Clerk**

**Copies to:**  
Honorable Geoffrey W. Barnard  
Iver Stridiron,  
Attorney General  
Denise George-Counts, Esq.  
AUSA Joycelyn Hewlett  
Kent Rogers, Esq.  
Chad Messier, Esq.  
Jennifer Coffin, Esq.